

Quarterly Report
of the
ATTORNEY GENERAL
of
ALABAMA



For the Period
From January 1, 1965
Through March 31, 1965

VOLUME 118

RICHMOND M. FLOWERS, Attorney General



T. O. "TILLIE" WALKER
E D WALKER

QUARTERLY REPORT
of the
ATTORNEY GENERAL
of
ALABAMA

For the Period
From January 1, 1965
Through March 31, 1965

**TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS
OF ALABAMA:**

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from January 1, 1965 through March 31, 1965, is published in compliance with the provisions of Title 55, Section 228, Code of Alabama 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy or county solicitor of his county. This section also requires that I send a copy of this report to each circuit solicitor and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, county, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

RICHMOND M. FLOWERS
Attorney General

RICHMOND M. FLOWERS
Attorney General

HARVEY ELROD
Deputy Attorney General

Dennis M. Lasseter
Executive Assistant

Randolph G. Lurie
Chief Assistant Attorney General

Assistant Attorneys General

W. Mark Anderson, III
Robert P. Bradley
Owen Bridges
David W. Clark
Joe Breck Gantt
Paul T. Gish, Jr.

Leslie Hall
Gordon Madison
William N. McQueen
James L. Screws
Bernard F. Sykes
John C. Tyson, III

Legal Research Aide

Roy E. Hicks

Assistant Attorneys General Assigned to other Departments

Agriculture and Industries:

George O. Miller

Conservation:

William G. O'Rear
John D. Bonham
David Ellwanger

Examiners of Accounts:

James W. Webb

Finance:

James T. Hardin

Health:

Robert F. Miller

Highway:

Charles G. Reynolds
John G. Bookout
Mrs. Julia H. Griswold
Winston Huddleston
George D. Mentz
James R. Solomon, Jr.

Pensions and Security:

Mrs. Mary Lee Stapp
Mrs. Carol F. Miller

Revenue:

Willard W. Livingston
Herbert Burson
William H. Burton, Jr.
B. Frank Loeb
James R. Payne
William C. Younger

OPINIONS

January 4, 1965

Honorable Hugh Webb, President
Cherokee County Board of Revenue
Centre, Alabama

Cherokee County — Costs and Fees — Counties — Judges
of Probate — Marriage — Probate Court — Records

1. Neither probate judge nor his employees may receive an allowance from the county for preparing a marriage index.
2. Under terms of local act, clerical assistants of probate judge may be paid by the county in an amount first approved by the Board of Revenue within statutory limitations.

Opinion by Assistant Attorney General Webb

Dear Mr. Webb:

I have received your letter of November 25, 1964 in which you request my official opinion as follows:

"A claim has been filed with the Board of Revenue of Cherokee County, Alabama, by Virginia W. Steed and Virginia H. Norton for preparing marriage index, 19,818 names at 8.05 per name—\$1,981.80.

"Section 11 of Title 34 of the Code of Alabama of 1940 as Recompiled in 1958 requires the Judge of Probate to keep a book, in which is to be registered all licenses issued by him, etc.

"Section 8 of Title 11 of Code of Alabama of 1940 as Recompiled in 1958 states in substance that no charge can be made for keeping indexes.

"Opinion of the Attorney General Volume 12, page 84, states that no charge can be made for keeping indexes.

"The Probate Judge of Cherokee County, Alabama is on salary and not a fee basis.

"The claim above referred to is filed by two of the regular employees of the Probate Office, who are paid by Cherokee County, Alabama, for their said employment, and it is our information that this work was done by claimants during their regular work day.

"Will you please give us an official opinion as to whether or not this claim can be legally allowed and paid by the Board of Revenue."

It is well-settled in this state that the laws of costs and fees are penal in nature and unless a fee is established by law, one cannot exist. Title 11, Section 1, Code of Alabama Recompiled 1958. The fees for probate judges are generally provided for under the provisions of Title 11, Section 29, Code of Alabama Recompiled 1958. No fee is provided for indexing of marriages.

Title 13, Section 280, Code of Alabama Recompiled 1958, provides in pertinent part as follows:

"It is the duty of the probate judge:

* * * * *

"3. To keep all the books, papers, and records belonging to his office with care and security; the papers arranged, filed and labeled, so as to be of easy reference; and the books and records lettered, and kept with general, direct and reverse indexes; but, without the authority of the court of county commissioners; he must not make new indexes."

Note, also, provisions of Title 13, Sections 285 and 286, *supra*. These sections, when considered together with the provisions of Title 34, Section 11, *et seq.*, Code of Alabama Recompiled 1958, do place an affirmative requirement upon the judge of probate to keep indexes of marriage licenses and certificates so recorded.

As noted by you, Title 11, Section 8, Code of Alabama Recompiled 1958, provides:

"The probate judges, clerks of the circuit courts, and registers are prohibited from receiving any fees or allowances out of the county treasury for keeping direct and reverse indexes to books and records required by law."

It is, therefore, well-established by law that the probate judge may not receive a fee or allowance for the preparation of an index. Quarterly Report of Attorney General, Volume 12, page 85; Quarterly Report of Attorney General, Volume 53, page 146. It is equally well-established that employees of an official act only on authority of the official himself.

In this instance, I note that the salary and clerical assistants for the present term of the Cherokee County Probate Office are included in the provisions of Act No. 276, Acts of Alabama 1957, page 349. Under the provisions of this act, the county board of revenue may provide clerical assistants to the probate judge for performance of any of his duties. This would include clerical assistants, in my opinion, for the duty of indexing

recorded marriage certificates and licenses provided, however, that the clerical assistants selected by the judge of probate and the compensation fixed shall first be approved by the board of revenue and shall in no instance exceed in total for all such clerical assistants the statutory limitations and provided further, however, that the indexing, as noted in Section 280 of Title 13, supra, must also be first approved by the board of revenue.

I assume for the purpose of this opinion that the clerks making the claim have already been approved and hired and that their compensation has likewise been set by the Board of Revenue. Under this assumption, I find no authority of law by which such compensation might now be increased for the duties already performed, such duties being those required by law of such employees and the official by virtue of their original employment. This does not mean to say that the board of revenue might not now approve an increase in compensation but only that such increase must be within the provisions of Act No. 276, supra, and have the prior approval of the board of revenue.

As previously shown, neither the probate judge nor his county-paid employees are entitled to compensation as a matter of right for the work performed. Your question is, therefore, answered in the negative.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General

January 6, 1965

Hon. Mylan R. Engel
Attorney
The Personnel Board of Mobile County
Mobile, Alabama 36601

Mobile County — Merit System.

The Mobile County Personnel Board does not have the authority by contract to cover persons under the Civil Service System who are not covered by the statute.

Opinion by Assistant Attorney General McQueen.

Dear Sir:

Your request for an official opinion, bearing date of December 10, 1964, is as follows:

"The Mobile County Personnel Board was created and established in and for Mobile County, Alabama, under and by virtue of Local

Act No. 470, approved September 15th, 1939, Local Acts of Alabama beginning at page 298. The purpose of the Mobile County Personnel Board is to govern and control by civil service rules, regulations and practices, all individuals in the Classified Service.

"Section 1 of the Act defines Classified Service as follows:

"Classified Service includes all offices, positions, and employment in Mobile County or any such City therein as these offices, positions and employment now exist or as they may hereafter exist, the holders of which are paid whether by salary, wages or fees in whole or in part from funds of Mobile County or any such city, or the holders of which receive their compensation from any elected official and perform duties pertaining to the office of such elected official or officer, except those placed in the "unclassified service" by Section 2 hereof."

"Section 2 of the Act simply exempts certain classes of people from the effect of the Civil Service Law.

"The Mobile Housing Board, which is an agency to which the members of the Board are appointed by the City Commission of the City of Mobile, employs approximately 135 employees. A formal request has been made by the Housing Board to the Mobile County Personnel Board requesting the Personnel Board to assume jurisdiction over the Housing Board Employees and place all of them under the jurisdiction and control of the Mobile County Civil Service rules, regulations and practices. The members of both boards have conferred and as a result thereof, the Housing Board desires to enter into a contractual arrangement with the Personnel Board whereby the Personnel Board would assume jurisdiction over all the Housing Board Employees. From and after the date of execution of such contract all of said employees would be under the jurisdiction and control and subject to all the rights, privileges and obligations of all other civil service employees in Mobile County.

"I therefore respectfully request your opinion on the following question:

"1. Is it lawful for the Mobile County Personnel Board to enter into a contract with the Mobile Housing Board whereby the employees of the Mobile County Civil Service System and be subject to the rules, regulations and practices of the said Personnel Board?

"2. If so, is it required to be done by contract or does the Personnel Board have the authority to assume jurisdiction over the Mobile Housing Board employees?

"While I have pointed out in definition of classified service, that employees must receive their salary, wages or fees in whole or in

part from funds of Mobile County, etc., which would appear to exclude the Housing Board, inasmuch as it receives only federal funds, yet the definition of Appointing Authority or Appointing Power also found in Section 1 would appear to include such Board.

"Your opinion on the foregoing is respectfully solicited."

My answer to your first inquiry is in the negative.

Section 1 of Act No. 470, quoted in your request, clearly shows that the classified service includes only those offices, positions, and employment in Mobile County or in any city within Mobile County whose salary, wages or fees are paid in whole or in part from funds of Mobile County or any city within the purview of the Civil Service Act.

I know of no law which authorizes your board or any other board to extend the provisions of an act of the Legislature by contract. Therefore, since the employees of the Mobile Housing Board are paid in whole from Federal funds, they are not within the definition of the classified service as contained in Act No. 470, supra, and cannot be brought within the purview of the act by contract between the Mobile County Personnel Board and the Mobile Housing Board.

Since my answer to your first question is in the negative, it is not necessary that I answer your second question.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

January 13, 1965

Hon. Robert M. Cleckler
Superintendent of Banks
State Banking Department
CAPITOL

Banks — Banking — Reserve.

Investments in Federal funds cannot be construed as cash as portion of the legal reserve required under Title 5, Section 81, Code of Alabama 1940, as amended.

Opinion by Assistant Attorney General Clark.

Dear Sir:

Your request for an official opinion, bearing date of January 11, 1965, is as follows:

"Re: Central Bank and Trust Company
Birmingham, Alabama

"The subject is a state chartered bank under the supervision of this department. The bank is required under the provisions of Section 81, Title 5 of the 1940 Code of Alabama to maintain a reserve of 15% of its demand deposits and in addition 4% of its time deposits as presently fixed by action of the State Banking Board.

"Request is made for an opinion of whether or not investments in federal funds by the bank can be construed as cash or due from banks as numerated in the provisions of the Code section referred to above as a portion of the legal reserve that the bank must maintain."

Title 5, Section 81, Code of Alabama 1940, as amended, provides:

"§ 81. Reserve.—No bank, firm, person, or corporation doing a banking business shall reduce, or be allowed to reduce, the cash of the bank on hand, and with banks, below fifteen percent of demand deposit. In addition to such reserve no bank, person, firm, or corporation doing a banking business in this state shall reduce or be allowed to reduce the cash of the bank on hand and with banks in an amount below the percentage of its time deposits fixed by the majority vote of the state banking board as the proper reserve to be maintained, which reserve shall not exceed five per cent of such time deposits nor at any time be fixed at an amount less than one percent of such time deposits."

Cash ordinarily means money which the owner has on hand or subject to his right of immediate possession. Volume 6 Words and Phrases.

The mandate of Section 81, supra, is that "cash of the bank on hand, and with banks" in the stated amounts be held as reserve. Investments in Federal funds would not satisfy the requirement of cash under that section.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

January 18, 1965

Honorable Guy D. Roberts
Chairman

Morgan County Board of Revenue and Control
Decatur, Alabama

1. A county is authorized to appropriate its funds to be expended for the writing and publication of the history of the said county, and the story of its developments, under Act No. 597, Acts of Alabama 1959, page 1485 (Title 52, Section 626(1, 2 & 3), Code of Alabama 1940, Recompiled 1958, 1963 Cumulative Pocket Part).
2. Said history may be published in book form and distributed free to certain libraries within the State of Alabama but not to those outside the State.

Copies may be given to chamber of commerce if the county governing body determines such would be for the purpose of promoting the industrial development of the county, but copies may not be given to private concerns.

4. County may not sell said copies, nor give same to non-profit societies for sale, and use the proceeds thereof for the erection of historical markers or monuments in the county.

Opinion by Assistant Attorney General Screws

Dear Sir:

Your request for an official opinion bearing date of December 18, 1964, is as follows:

"The Board of Revenue and Control of Morgan County, Alabama, is desirous of employing a local professional writer to write the history of Morgan County and the story of its development. The manuscript is to be completed within one year and the substance and authenticity of the work is to be approved, as it progresses from time to time, by a committee of local people appointed by the Board who are experienced and learned in the matters to be written about. A contract is to be entered into by the Board with the writer to pay him a specified sum for the work which sum is to be paid in 12 equal monthly installments. When the manuscript is completed and approved the Board will contract to have it published in book form and distribute the copies thereof to libraries and schools in Morgan County and to selected libraries and schools throughout the State and Nation. The Board also proposes to furnish prospective industries and the Decatur Chamber of Commerce with copies of the book for the purpose of promoting the industrial development of Morgan County.

"A copy of the resolution authorizing the action, which has been adopted by the Board, is attached hereto for your perusal and consideration. You will note that it is the feeling of the Board that the

writing and publishing of this book will mean much in the way of advertising and promoting the agricultural and industrial development of the County. It is felt that it will be one of the most effective means of advertising Morgan County and attracting industry.

"The Board desires before proceeding further in this matter to request your official opinion as follows:

'1. Does the Morgan County Board of Revenue and Control have the authority to employ a writer and expend county funds to write the history and the story of the development of Morgan County, Alabama, as above outlined?

2. If your answer to question 1 is in the affirmative, then please advise if the Board will have the right to have the manuscript published in book form and to distribute copies to libraries and schools in Morgan County and to selected libraries and schools throughout the State and Nation. Also, would the Board be authorized to give copies to prospective industries and to the Decatur Chamber of Commerce to be used by it for the purpose of promoting industrial and agricultural development of the County?

"3. If the Board is authorized to proceed as outlined above and your answer to question 1 and 2 are both in the affirmative, then please advise whether the County would be authorized to sell any surplus books it may have and deposit the proceeds therefrom in the general fund of the County? If the Board would not be authorized to sell the books, then would it have authority to give them to the North Alabama Historical Society, a non-profit corporation, to be sold by the said Society and the proceeds derived therefrom used by it to erect historical markers throughout Morgan County thereby preserving its great history for its people and also for the purpose of attracting the tourist trade."

I am of the opinion that your first inquiry should be answered in the affirmative.

The authority for a county to expend its funds for such historical purposes is found in Act No. 597, Acts of Alabama 1959, page 1485 (Title 52, Section 626(1, 2, & 3), Code of Alabama 1940, Recompiled 1958, 1963 Cumulative Pocket Part). This act provides in pertinent part as follows:

"Section 1. The county governing bodies and the governing bodies of all municipalities in the State of Alabama are hereby authorized, and empowered to promote education by undertaking research into the history of the State of Alabama, its several counties and municipalities, its coastline and boundaries, and the territory included therein, its geological deposits, agricultural and marine data, its rivers, streams and harbors, its history from the earliest times and especially

during the colonial period, A.D. 1519 to A.D. 1815, and such general historical data and information, and to effect the completion of translations of such data and information, where such old official records are in foreign languages, and to effect the publication of these records for the free distribution to public libraries, school libraries and to the College and university libraries within the State of Alabama and for the further diffusion of knowledge in reference to the history and resources of the State of Alabama and its several counties and municipalities and the encouragement in general of historical work and research in all colonial records of the State of Alabama.

"Section 2. To carry out the authority vested in the county governing bodies and the governing bodies of the municipalities by the provisions of Section One hereof, the county governing bodies and the governing bodies of the municipalities of the State are hereby authorized, and empowered to set aside, appropriate and use county funds and municipal funds for this purpose.

"Section 3. To carry out the provisions of this Act, all county governing bodies and the governing bodies of all municipalities are hereby authorized, to enter into contracts with historical corporations, foundations or associations which are duly incorporated within this State."

I think that Section 3, *supra*, is an additional authorization to Sections 1 and 2 rather than a limitation upon the parties with whom a county may enter into the contractual relations in question. Such a contract may be consummated with an individual as well as the associations as those set forth in said Section 3, *supra*.

The answer to that part of your second inquiry relative to publishing the manuscript in book form is in the affirmative. Such book form would be the logical method of disseminating the historical information and data secured.

Section 1 of Act, *supra*, specifically provides free distribution to public libraries, school libraries and to the college and university libraries within the State of Alabama. This answers that part of your second inquiry regarding free distribution. There is no authority for free distribution to libraries and schools outside the State of Alabama.

In regard to that part of your second inquiry concerning the giving of copies of the history to prospective industries, I know of no authority of such authorization. In regard to giving copies to the Decatur Chamber of Commerce, your attention is invited to a former opinion of this office reported in Quarterly Report of Attorney General, Volume 64, page 82, which holds that a county may appropriate funds to a chamber of commerce for the purpose of promoting industrial development for the county. If your county governing body determines that giving copies to

the Decatur Chamber of Commerce is for the purpose of promoting the industrial development of the county, I see no reason why this cannot be done in lieu of appropriating monies directly to said Chamber of Commerce. The distribution to the Chamber of Commerce rather than a direct distribution to prospective industries would be the proper method of effectuating the purpose of promoting the industrial development of the county.

In answer to your third inquiry, I am of the opinion that the county may not sell any surplus books. There is no authority for the county to go into the book selling business. This cannot be done indirectly by giving them to a non-profit historical society for sale by it. Your further attention is invited to a former opinion of this office holding that the county has no authority to expend its funds for the purpose of erection of historical markers or manuments in general. — Biennial Report of Attorney General 1932-34, page 462; Quarterly Report of Attorney General, Volume 16, page 31.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

January 26, 1965

Honorable Peter J. Palughi
Assistant City Attorney
City of Mobile
Post Office Box 841
Mobile, Alabama

Fines — Municipalities.

The total amount of the penalties collected by the City of Mobile under Act No. 244, Acts of Alabama 1964, page 335, from persons convicted of violating municipal ordinances must be forwarded to the State Treasurer.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an official opinion, under date of December 28, 1964, is as follows:

"The City of Mobile is subject to the provisions of a certain local act which sets up a Pension Fund for the Policemen and Firemen of the City. It is known as the Mobile Policemen's and Fire Fighter's Pension and Relief Fund Act. Under the terms and provisions of this

Act the City of Mobile is required to put into the said Pension Fund an amount equal to five percent of the monies collected by the City for violation of City ordinances.

"At the 1964 Special Session of the Legislature, the State Legislature passed an Act which assessed an additional penalty of \$1.00 upon conviction for a moving traffic violation.

"The question is whether the Pension Fund Act requires the City to deduct five per cent of the additional \$1.00 penalty for deposit in the Pension Fund or must the City forward all such additional \$1.00 penalties intact to the State Treasurer without making any deductions for the Policemen's and Fire Fighter's Pension and Relief Fund."

Act No. 243, Acts of Alabama 1964, page 326, establishes the Pension and Relief Fund for Policemen and Firemen of the City of Mobile.

Section 3 of Act No. 243, *supra*, reads in part as follows:

"There shall be paid into such Fund, out of the treasury of the City of Mobile, an amount equal to five per cent of the amount of all fines and moneys, except costs of court, paid as a result of prosecution for violations of ordinances or laws of the City of Mobile, which sums shall be determined and credited to the fund on a monthly basis; . . ."

Act No. 244, Acts of Alabama 1964, page 335, provides in part as follows:

"Section 1. In addition to all other fines, fees, costs, and punishments now prescribed by law there shall be imposed or assessed an additional penalty of one dollar (\$1.00) upon the driver of any motor vehicle upon his conviction by any judge in any court of the state of any offense involving a moving traffic violation; or upon conviction of a moving traffic violation prescribed by any county or municipal ordinance.

"Section 2. All penalties collected under this act shall be forwarded by the officer of the court who collects the same to the state treasurer, within thirty days after the penalty or forfeiture is collected. All amounts so received shall be credited to a special fund to be designated the 'Driver Education and Training Fund,' and an amount equal to ninety percent (90%) thereof is hereby appropriated to the state department of education for the sole purpose of instituting and conducting a program of prelicensing driver education and training; the remaining ten percent (10%) is hereby appropriated to the state safety coordinating committee for payment of administrative expenses incurred in its program."

Act No. 243, supra, is a local law applicable only to the City of Mobile. Act No. 244, supra, is a general law of state-wide application.

The Constitution of Alabama 1901, Section 105, provides that no local law shall be enacted "... in any case which is provided for by a general law. . . ."

This office held in an opinion reported in Quarterly Report of Attorney General, Volume 33, page 37, that the disposition of fines and forfeitures collected for traffic violations is a case which is provided for by a general law within the meaning of Section 105, supra. See also Quarterly Report of Attorney General, Volume 100, page 18.

Therefore, I am of the opinion that the additional penalties collected under Act No. 244, supra, from the drivers of motor vehicles who are convicted under ordinances of the City of Mobile of moving traffic violations, are not subject to the provisions of Act No. 243, supra, and that the total amount of such penalties must be forwarded to the State Treasurer.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General

February 3, 1965

Hon. Robert M. Cleckler
Superintendent of Banks
State Banking Department
C A P I T O L

Banks and Banking — Debentures — Convertible Capital Notes.

State chartered banks may issue debentures or convertible capital notes under existing Alabama laws.

Opinion by Assistant Attorney General Clark.

Dear Sir:

Your request for an official opinion, bearing date of August 3, 1964, is as follows:

"Re: Debentures and/or Convertible Capital Notes

"The Commercial Bank of Andalusia, Alabama, is desirous of the possibility of issuing some type of debenture and of ascertaining the legality of such obligations. We request your opinion on the following:

"1. Can state chartered banks under the existing laws of Alabama issue debentures or convertible capital notes?

"2. In the event debentures or capital notes are legally issued, should they be treated as bills payable or a part of the capital account and included in the calculation for the legal loan limit of the bank?

"3. If the bank is legally authorized to issue convertible capital notes, should such notes be treated as capital prior to the conversion of the notes into common capital stock."

"The business of banking, as defined by law and custom, consists in the issue of notes payable on demand, intended to circulate as money where the banks are banks of issue; in receiving deposits payable on demand; in discounting commercial paper; making loans of money on collateral security; buying and selling bills of exchange; negotiating loans and dealing in negotiable securities issued by the government, state and national, and municipal and other corporations." *Mercantile National Bank of New York v. Mayor, etc. of New York*, 121 U. S. 138, 7 S. Ct. 826, 30 L. Ed. 895.

It is universally held that banking is a business peculiarly affected with a public interest and is, therefore, subject to reasonable regulations. Unlike other commercial or manufacturing corporations, banks are quasi-public in nature and the Legislature has, by statute, exercised careful supervision over them.

Section 248, Constitution of Alabama 1901, provides that no bank shall be established otherwise than under a general banking law.

Title 5, Code of Alabama 1940, as amended, sets out the banking laws of Alabama. The sections of Title 5 set out the powers of banks, certain restrictions, means of increasing capital stock, etc.

The Supreme Court of Alabama in *Hamilton National Bank of Chattanooga v. Lerman*, 229 Ala. 363, 157 So. 75, held that a bank, through its cashier, could borrow money to carry on the business of Farmers and Merchants Bank of Athens, Alabama, giving notes of that bank secured by collateral customers' notes. The Court in that case held:

"There can be no doubt but a banking corporation like an individual may borrow money for the conduct of its affairs without authority therefor, whenever the nature of its business may render it proper or necessary. And it is well settled that this rule applies to the banking corporation." 3 R.C.L. Section 55, page 427.

The above opinion implies that a bank has the authority to issue its own promissory notes to the extent that it has the authority to borrow the money which the promissory notes evidence.

A research of banking laws fails to disclose a statute in the State of Alabama which would restrict or prohibit a State bank from issuing a series of long term notes.

In my opinion, State chartered banks may issue debentures and convertible capital notes under powers granted to them by Title 5, Section 118, Code of Alabama 1940.

Questions Nos. 2 and 3 are matters of bank accounting and are not answered in this opinion. The conditions of subordination in the debentures or capital notes would be a determining factor in the capital structure.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

February 17, 1965

Honorable Claude D. Kelley
Director of Conservation
Montgomery, Alabama

Conservation — Water Safety

Duty of Water Patrol Officer toward boat of intoxicated person who is taken into custody. Reasonable care and precaution required. Boat should be properly secured and docked to relieve liability on part of arresting officer.

Opinion by Assistant Attorney General William G. O'Rear.

Dear Sir:

I have your request for an opinion dated February 10, 1965, which is as follows:

"The Water Patrol Officers of the Department of Conservation frequently apprehend boat operators who are intoxicated and in the opinion of the arresting officer, incapable of safely operating their vessel, which constitutes not only a danger to the intoxicated person but other persons using the public waters.

"We would appreciate receiving your official opinion as to the responsibility or liability of the arresting officer concerning the disposition of the intoxicated person's vessel. Specifically, what duty is there on the officer to safeguard the arrested party's vessel or does he have any obligation in this regard?"

A water patrolman is under a limited duty to safeguard a vessel of a person he has arrested for intoxication.

I am of the opinion that a water patrol officer who has removed the operator of a vessel on the waters of this State because of intoxication is charged with the duty to take reasonable precautions and exercise reasonable care in seeing that the subject vessel is properly secured or docked. Failure to take such reasonable care and precaution would constitute misfeasance on the part of the arresting officer. The general rule to be followed by water patrolmen in such cases is that they exercise the same care as a reasonably prudent officer would exercise in the same or similar circumstances.

If an arresting officer has securely moored or docked an arrestee's vessel, he would not be subject to liability in the event the vessel was damaged or destroyed by unusual conditions such as an unexpected storm or fire, as such circumstances would not be within the purview of reasonable diligence and care but would be of an extraordinary nature. See *O'Bryan Bros. vs. Webb*, 37 So. 935, 142 Ala. 259.

You are, therefore, advised that water patrol officers when making an arrest of an intoxicated person on the waters of this State are required to exercise reasonable diligence and care in safeguarding the arrestee's vessel but they are not responsible for unusual or extraordinary circumstances or events causing damage to the vessel.

Yours very truly,

RICHMOND M. FLOWERS

Attorney General

February 18, 1965

Hon. James E. Caldwell
Administrator

Alabama Alcoholic Beverage Control Board
Administrative Building
C A P I T O L

ABC Board — Profits — Municipal Corporations —
Census.

In the distribution of profits to municipal corporations as provided for by Title 29, Section 71(1), the 1960 Federal Decennial Census should be used as a basis and not a census taken under the provisions of Act No. 845, Regular Session of the 1953 Legislature.

Opinion by Assistant Attorney General McQueen.

Dear Sir:

Your request for an official opinion bearing date of February 4, 1965, is as follows:

"We respectfully request your official opinion as to the application of Act No. 845 of the Regular Session of the 1953 Legislature for the purpose of distribution of A. B. C. Stores Profits to incorporated municipalities.

"Section 71 of Title 29 of the Code of Alabama 1940 sets forth the detail of the disposition of net profits of Alabama liquor stores including that part to incorporated municipalities with the provision that population be determined according to the last decennial federal census.

"Act No. 845 of the 1953 Legislature provides for a special census of the population of a city or town by the Bureau of the Census for the purpose of distribution of revenue on a population basis.

"Since the approval of Act No. 845, the A. B. C. Board has been recognizing a special federal census of incorporated municipalities in making distribution of A. B. C. profits on the population basis.

"Now it is noted that although the population of a given city or town may be changed by a special federal census, the base for the computation of distribution of profits, namely, the total population of the State according to the last decennial census, does not change.

"We therefore request your opinion as to the following:

"1. Should the A. B. C. Board be guided by Act No. 845 of the 1953 Legislature in the distribution of profits to incorporated municipalities on the population basis?

"2. If your answer is in the affirmative, at what date should the new census be recognized? In this connection we call to your attention that Section 71(1) (d) provides for a newly incorporated municipality to begin participation at the beginning of the next fiscal year of the Board following the date notice is received by the Board which is the only practical administrative means of making distribution of profits based on population."

My answer to your first inquiry is in the negative.

Act No. 845 of the 1953 Legislature now appears as Title 37, Section 481(1), (2), Code of Alabama 1940 Recompiled. Section 481(2) reads as follows:

“§ 481(2). Use of such census; unnecessary in case of annexations.—Any census taken under the provisions of section 481(1) shall be used only as the basis for any law which provides for the levy or collection of license taxes where such levy or collection of license taxes is based on population, and as the basis for any law which provides for the distribution of state-collected or county-collected licenses, excises, revenues, or funds where such distribution is administered or distributed on a population basis. Such census shall be used in administering any such laws as soon as such census is certified by the bureau of the census, U. S. department of commerce, and proclaimed by the governing body of the city or town providing for the taking of the census. Provided, however, that where a municipality is annexed or otherwise merged with another municipality it shall not be necessary to take a census as provided herein but the population of the municipality to which such other municipality is annexed or merged shall be the combined total of the population of each such municipality according to the last federal census and such total population shall be the official census of such city.”

The census authorized to be taken by a municipal corporation in Section 481(1), *supra*, is to be used as a basis for any law which provides for the distribution of state collected or county collected licenses, excises, revenues or funds where such distribution is administered or distributed on a population basis. This is a general provision relating to a general subject, namely, the distribution generally of funds administered or distributed on a population basis.

Section 71(1) of Title 29, Code of Alabama 1940 Recompiled, provides for the distribution of the proceeds of the profits from the Alabama liquor stores. In Subsection (a), the method of distribution to municipal corporations is provided for, based on populations of the various municipalities. The last sentence of the subsection specifically provides that the populations shall be ascertained for the purpose of distribution under this section according to the last **decennial Federal census** preceding commencement of the fiscal year for which distribution is to be made. This is the only section providing for the distribution of the profits from the Alabama liquor stores to the several municipalities of the State. It is a specific provision relating to a specific subject, namely, the distribution of profits derived from the operation of Alabama liquor stores.

It is a well known rule of statutory construction that special provisions relating to specific subjects control over general provisions relating to general subjects. *Cooper Transfer Co. Inc. v. Alabama Public Service Commission*, 271 Ala. 673, 127 So. 2d 623; *Herring v. Griffin*, 211 Ala. 225, 100 So. 202; *Geter v. U. S. Steel Corp.*, 264 Ala. 94, 84 So. 2d 77.

Using this rule of statutory construction, it necessarily follows that the specific provision, namely, Title 29, Section 71(1), being a specific provision of law dealing with a specific subject governs over the general

provision of law contained in Act No. 845. Therefore, the Federal Decennial Census of 1960 should be used in determining the populations of cities in the distribution of profits, and not a census taken under the provisions of Act No. 845.

It is not necessary that I answer your second inquiry.

It has come to my attention that on advice of members of this staff you have on occasion recognized the census as provided by Act No. 845, and have made distribution of ABC profits on a population basis as shown by the census taken under that act. All such provisions, advice and opinions are hereby overruled and since your action was on advice of this office, the protection afforded by Title 55, Section 241, Code of Alabama, 1958 Recompiled, is available to the ABC Board and its employees.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

February 18, 1965

Honorable Wiley Hickman
Etowah County
Judge of Probate
Gadsden, Alabama

Taxation — Filing Tax — Deeds — Mortgages.

In purchase money mortgage transactions where the deed and mortgage are filed simultaneously, and the deed does not contain any mention of the existence of a purchase money mortgage, or any mention that said mortgage is consideration or part of the consideration for the conveyance, said deed may be recorded upon payment of the correct amount of deed tax, if any is due, provided the Judge of Probate is satisfied from the facts that said deed is a part of the purchase money mortgage transaction.

Opinion by Assistant Attorney General B. Frank Loeb.

Dear Sir:

Your request for an official opinion (together with attachments) bearing date of January 28, 1965, is as follows:

"Enclosed are copies of a deed and a mortgage which were filed simultaneously for record in this office. We collected the full

mortgage tax on the mortgage, but did not collect a deed tax on the deed. (Attorney General Opinion, Vol. 50, Page 211; also Attorney General Opinion, Vol. 114, Page 95).

"The question has arisen that when a transaction of this type is filed, wherein the deed cites as a consideration \$15,000.00 cash and no mention is made of a separate mortgage as being the consideration or a part of the consideration, should deed tax be collected. In order for the deed not to carry the tax, should it, (the deed) be so written, 'for a consideration of \$15,000.00 which is evidenced by a separate purchase money mortgage of even date'?"

"Your opinion on this matter will be greatly appreciated."

The attached copies of a Warranty Deed from Janice Howe Raper and husband, Hal Stuart Raper to C. Walter Pyron, and Mortgage from C. Walter Pyron and wife, Jean V. Pyron to Martha W. Inzer, both being dated January 13, 1965, have been carefully examined. It is noted in your letter that you have already collected full mortgage tax on the mortgage, but did not collect deed tax on the deed. This is in accord with previous opinions of this office contained in Vol. 104, p. 44; Vol. 110, p. 10; and Vol. 114, p. 95, Quarterly Reports of the Attorney General.

The question raised by your request is whether or not deed tax must be collected if the deed itself does not state that there is a separate purchase money mortgage for either the full amount of consideration recited in the deed or a part thereof.

I feel that it is not necessary for the deed to explicitly state that the consideration is evidenced by a separate purchase money mortgage of even date. If, as you state in your letter, the deed and mortgage are brought in simultaneously for recordation and show, as they do in this case, that they were executed on the same date, and if from an examination of the two instruments and what other evidence you may have, you are satisfied that the deed and mortgage are part of a "purchase money mortgage" transaction, then it is unnecessary for the deed itself to contain such information. It would be helpful, of course, but not necessary. As pointed out in the previous opinion contained in Vol. 110, p. 10, Quarterly Report of the Attorney General: "If, from the facts, you conclude that the instrument under consideration is a 'purchase money mortgage,' you should collect mortgage tax upon the indebtedness recited therein; you may then record the deed upon payment of the deed tax based on the value over and above the mortgage. It should be borne in mind that although the deed and mortgage do not necessarily have to be recorded simultaneously, the facts of the transaction must show that the deed and mortgage were executed as a part of a simultaneous, or nearly simultaneous transaction."

In this case, it is noted that the mortgage states that the Mortgagor is indebted to the Mortgagee in the sum of \$15,000 for "that amount of

money loaned by Mortgagee to Mortgagor — and used by Mortgagor in purchasing the lands described herein.”

In my opinion, this would be enough evidence to indicate that the deed and mortgage are part of a “purchase money mortgage” transaction.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General

February 25, 1965

Honorable Ray McClendon
Tax Assessor, Marshall County
County Court House
Guntersville, Alabama

Ad Valorem Taxes — Leasehold Interest

1. Title 51, Section 21, Code of Alabama 1940, Recompiled 1958, the Section describing the subjects of ad valorem taxation in this State, does not authorize the assessment and taxation of a leasehold interest in real estate, separate and apart from the fee or entire ownership of the land involved.
2. Minnow ponds which are a part of the real estate, cannot be lawfully assessed in this State to one who has only a leasehold interest in the and on which the ponds are situated.

Opinion by Assistant Attorney General Burton.

Dear Sir:

Your request for an official opinion bearing date of February 1, 1965, is as follows:

“One of our taxpayers is leasing land from the TVA in Marshall County, and the Board of Equalization came along and put an assessment on minnow ponds which he is operating. I feel that the assessment was in error, and I would certainly appreciate an opinion on this. The Bill against him has already been paid for 1964, but if it is not a valid assessment we certainly don't want to charge it to him for 1965. Three or four years now, this taxpayer has paid \$62.50 per year, but prior to this his bill was \$125.00 for the preceeding ten years. There is no machinery and equipment or anything of this type on his assessment, just the minnow ponds. If you would, sir, please give us something to enlighten us.”

In the outset it is well to state that it is a matter of general knowledge that the Tennessee Valley Authority is an agency and instrumentality of the United States and as such both it and its property are immune from State taxation.

It is my understanding that there are no buildings or other property belonging to the lessee situated on the land leased by him from the Tennessee Valley Authority and there is nothing on the land but the minnow ponds. It is also obvious that the ponds are a part of the land or of the realty.

Your question then is whether or not the minnow ponds or the lessee's interest therein created under the lease agreement can be assessed for ad valorem taxation to the lessee separately and apart from the fee and ownership of the Federal Government in the land.

Your question is answered in the negative and to the effect that as the ponds are a part of the realty, the ponds and the lessee's leasehold interest therein cannot lawfully be assessed for taxation in this State separately and apart from the ownership of the land. Thus, as the land on which the ponds are situated is owned by an agency of the Federal Government, neither the ponds nor the land of which they are a part are subject to assessment for State taxation.

The rule is well established that a leasehold interest cannot be assessed separately from the freehold interest in the same property, unless specifically authorized by statute. 51 Am. Jur., Section 435, page 451. In Alabama the owner of the land and the freehold is required to assess the entire estate or the fee and for the purpose of taxation the interest of a lessee in the land or leasehold interest therein cannot be split therefrom or assessed separately from the fee or ownership of the land. Title 51, Section 21, Code of Alabama 1940, Recompiled 1958. **Ken Realty Co. v. State**, 247 Ala. 610, 25 So.2d 675, 678, 166 A.L.R. 588. **State v. Roden Coal Co.**, 197 Ala. 407, 73 So. 5. **State v. White Furniture Co.**, 206 Ala. 575, 90 So. 896. **Ashe Carson Co. v. State**, 138 Ala. 108, 35 So. 38; also see Quarterly Report of the Attorney General, Volume 90, page 10, and official opinion of this office (M.S.) to Honorable Billy Patton, Chairman of the Jefferson County Board of Equalization, dated September 28, 1964.

This opinion is to be distinguished from the two official opinions of this office cited above, as an entirely different factual situation is here presented.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

February 26, 1965

Hon. David M. Enslen
City Attorney
City of Fayette
P. O. Box 447
Fayette, Alabama 35555

Taxation — Sales Tax — Municipalities.

1. While actual delivery is considered as of the greatest importance in determining whether there is an intent to pass title, it is not conclusive; the intent of the parties, as disclosed by the facts and circumstances of each case, is conclusive on the question of passing of title.

2. Where the only facts given are that "A" agrees to sell to "B" a truck and delivers said truck to "B" in another County, such transaction does not constitute a sale made within the City of Fayette, and is not subject to such City's sales tax.

3. Where "A" takes a truck to an adjoining County within the State and convinces "B" that "B" needs the truck and leaves the truck with "B", such transaction does not constitute a sale within the City of Fayette, and is therefore not subject to that City's sales tax.

Opinion by Assistant Attorney General Loeb.

Dear Sir:

Your request for an official opinion bearing date of January 8, 1965, is as follows:

"The writer is the Attorney for the City of Fayette, Alabama, and in that capacity would like to submit a question for a ruling based on the following facts:

"The City of Fayette, a municipal corporation, adopted and approved an ordinance levying a privilege or license tax against persons, firms, or corporations in the business of selling tangible personal property at retail, a copy of which ordinance is enclosed herewith. It is noted that the wording of the ordinance is based on the wording of the State Sales Tax law.

"I would greatly appreciate a ruling on the following questions:

"(1). A is engaged in the business of selling automobiles and trucks in the City of Fayette and he receives a telephone call from a pur-

chaser located in another County, within the state. A agrees to sell to B a truck and delivers the same to B in another County. Is Sales Tax collectible by the City of Fayette?

"(2). A is in the business of selling automobiles and trucks in the City of Fayette, and he takes a truck to an adjoining County within the State and convinces B that B needs the truck and leaves the truck with B. Is Sales Tax collectible by the City of Fayette?"

Your first question is answered in the negative. Based on the facts as stated in your request, it is my opinion that no sales tax would be collectible by the City of Fayette on the transaction as outlined in your request, since the sale was not completed within the City of Fayette, but was only completed upon delivery of the truck to the customer in another county. The general rule in sales transactions of this nature is that title passes upon delivery of the merchandise to the buyer, delivery being the essential part of most sales transactions. See *Sanford Service Co. v. City of Andalusia*, 256 Ala. 507, 55 So. 2d 856.

To make a determination of when title passes, one must carefully examine the facts in each given case. Actual delivery is considered as of the greatest importance in determining whether there is an intention to pass title. But there may be a constructive delivery, and the intention of the parties, however disclosed, is conclusive on the question of whether title passes. *State v. Mobile Stove & Pulley Mfg. Co.*, 255 Ala. 617, 52 So. 2d 693; *Hamm v. Continental Gin Company*, 276 Ala. 611, 165 So. 2d 392.

In each of the above-cited cases, the Court held that the intention of the parties as disclosed by the facts of the transaction indicated that title did not pass upon delivery of the goods in question. In *Mobile Stove & Pulley*, title was held to pass upon constructive delivery which was previous to actual delivery; while in the *Continental Gin* case, it was held that title did not pass until after actual delivery since it was the intention of the parties that an essential part of the sales contract remained to be done after delivery was completed.

However, in the absence of facts and circumstances indicating to the contrary, the general rule is as stated above, that is, title generally passes upon delivery. There is no reason, under the facts contained in this inquiry, to doubt the application of the general rule and it is, therefore, the opinion of this office, based on the facts, that title did not pass until delivery outside the City of Fayette, and consequently such sales would not be subject to the City sales tax.

Your second question is also answered in the negative. In this situation, it is fairly obvious that the sale itself was not negotiated in the City of Fayette, nor was the delivery made within the City of Fayette. Such

transaction is clearly not a sale made in the City of Fayette, nor would it be subject to City of Fayette sales tax.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

March 8, 1965

Honorable E. W. Gibbs
Secretary, Alabama State Board
of Pharmacy
2827 Highland Avenue
Birmingham 5, Alabama

Pharmacists — Physicians.

Medical doctor owning or operating drug store may not delegate the filling of his own prescriptions therein to employee who is not licensed pharmacist.

Opinion by Assistant Attorney General Miller.

Dear Sir:

We have your letter of February 16, 1965, in which you state:

"We have a physician . . . who . . . has installed a drug room or pharmacy in connection with his office and displays a sign reading . . . Drug Store. The information furnished us indicates that he has a woman who is not a pharmacist in his drug room and has delegated to her the authority to compound and dispense prescriptions.

"We would appreciate an opinion from you as to the legality of this operation, specifically whether [he] can delegate the authority to compound and dispense his prescriptions, and if in your opinion this operation is illegal, then what action could our board initiate to remedy the situation?"

In 1937 the Attorney General issued a formal opinion in answer to a question by Mr. Sam A. Williams, Secretary of the Alabama State Board of Pharmacy. In this opinion the Attorney General stated that a legally licensed medical doctor could own or operate a drug store. It was said then that:

"It will be noted that if a legally licensed medical doctor either owns or operates a drug store, such doctor is relieved of complying with the provisions of the Act. The alternative is used. The physician

may either own or operate the drug store. As long as he acts in either capacity the requirements of the statute will be satisfied.

"Therefore, the physician may form a partnership with another, who may not be a physician or pharmacist, if the physician either himself owns the drug store or himself operates it. As above stated, such a drug store is not authorized to do a general prescription business, but the physician may fill his own prescriptions." (Quarterly Report of Attorney General, Volume 9, page 159.)

The text of the applicable statute is as follows:

"§ 257. Medical doctors owning and operating drug stores.—The provisions of this chapter shall not prevent any legally licensed medical doctor from owning or operating a drug store provided that said medical doctor fill only his own prescriptions and not do a general prescription business." (Title 46, Section 257, Code of Alabama 1940.)

This statute was originally passed by the legislature as Section 21½ of Act 332, S. 136, General Acts of Alabama 1931, page 377, approved July 1, 1931.

Section 21½ was an exception to Act No. 332. The main part of Act No. 332 provided for the welfare and protection of the people of Alabama by giving to the State Board of Pharmacy police power to regulate the preparation of prescriptions. By this exception found in Section 21½ the legislature carved out of the general police power granted by Act No. 332 a benefit for legally licensed physicians whereby they were not required to comply with the general rule. Within the exception, however, was a proviso that only certain physicians be excepted: (1) only those that fill only their own prescriptions and; (2) only those that do not do a general prescription business. No other physicians were to be excepted.

It is assumed that your problem is not one where the medical doctor is doing a general prescription business; therefore, I address myself to the situation where a medical doctor has hired someone to fill his own prescriptions, and this person is not registered or licensed by the Alabama State Board of Pharmacy. The ultimate question then is this: When the proviso states, "that the said medical doctor fill only his own prescriptions," can this be construed to mean that he may hire an employee to do so?

The general law states that a proviso following the main clause should be construed strictly. See Crawford, *Statutory Construction*, Section 297, published by Thomas Law Book Co., St. Louis, 1940.

Justice Thomas of the Alabama Supreme Court said in 1930, "any doubt about an exception or proviso . . . must be judged on the assumption that the rule is broader than the exception, [and] all doubts and implications must be resolved in favor of the rule." *Mobile Limers v. McConnell*, 220 Ala. 562, 126 So. 626.

If there had been no exception in this Act then all persons, including physicians, would be required to be licensed and registered by the State Board of Pharmacy before filling a prescription. Furthermore, if but one person or class of persons is excepted, then the rules of statutory construction would not allow one to go beyond this person or class of persons, and apply the exception to others not named merely because they fall within the reason for the exception.

Justice Story said "A proviso carves special exceptions only out of the enacting clause; and those who set up any such exception, must establish it as being within the words as well as within the reason thereof." *U. S. v. Dickson*, 10 L. Ed. 689, 698, 15 Pet. 141, 166. See also *Bragg v. Clark*, 50 Ala. 363, 365, wherein Chief Justice Peters adopted Justice Story's rule for Alabama.

To answer your question categorically, a physician who delegated the filling of his own prescription to an employee who is not licensed and registered by the State Board of Pharmacy is in violation of the provisions of Title 46, Section 234, Code of Alabama 1940.

As to what action the State Board of Pharmacy may now take involves an administrative decision based on its sound discretion and judgment. The question is too broad and involved to lend itself to an easy solution from a purely legal standpoint, especially since many of the facts are not apparent. For instance, will the physician persist in his illegal activities? Is there an administrative solution available within the community through local agencies? What is the most effective way of handling the problem?

It may not be amiss to call your attention to certain sections of Title 46, Code of Alabama 1940: Section 233 fastens upon the board the duty and authority to enforce the laws of the State pertaining to the practice of pharmacy; Section 224 gives the board power to employ an attorney; Sections 235 and 247 make the violator of Section 234 liable to the payment of a penalty and prosecution for a misdemeanor. Let me repeat, however, that any action your board may take is a matter which lies within its sound discretion.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General

March 9, 1965

Honorable Ralph P. Eagerton
Chief Examiner
State Department of Examiners
of Public Accounts
Montgomery, Alabama

Costs and Fees — Clerks of Circuit Courts — Clerks of
County Courts — Clerks of Inferior Courts — Opinions Over-
ruled, Modified and Distinguished.

1. Items of cost paid by the state, in whatever amount, should be remitted in full to the state when subsequently paid by the defendant and those items paid by other funds, or owing to such other funds, should be remitted to those funds.
2. When defendant works part of cost and pays part and the cost paid by the state did not cover all of the items of cost in the case, then the amount paid by the defendant should be prorated.
3. Quarterly Report of Attorney General, Volume 97, page 40, modified accordingly.

Opinion by Assistant Attorney General Webb.

Dear Sir:

I have your letter of March 1, 1965 in which you request my opinion as follows:

"I request your official opinion in the following instance:

"A defendant was sentenced in an inferior court to hard labor for the county for cost and cost bill was thereafter submitted to the State Comptroller for the following items:

Clerk's Fee	\$ 5.00
Sheriff's Fee	\$ 11.25

"The State Comptroller paid \$16.25. Unpaid are the following items of cost:

County Court Fee	\$ 6.00
Solicitor's Fee	\$ 30.00

"Thereafter working out part of the cost of court, thirteen days at \$3.00 per day, the defendant paid \$13.25 and was released.

"Quarterly Report of Attorney General, Volume 97, page 40, though dealing with similar circumstances, is not clear as to distribution of amounts paid and I request your opinion as to proper distribution."

Quarterly Report of Attorney General, Volume 97, page 40, referred to by you, stands for the general proposition that whatever amount paid by the defendant is remitted to the state when such costs have been paid by the state. This opinion has further been clarified by a subsequent informal opinion of the Attorney General to Honorable J. H. Dobbins, Clerk, Circuit Court of Calhoun County, under date of October 18, 1960, in the following language:

"... those items of cost paid by the State, in whatever amount, should be remitted in full to the State and those items paid by other funds or owing to other funds would be remitted to those funds. For example, the State would, in a typical case, usually pay all items of cost except the clerk's fees in a preliminary trial and the solicitor's fees. These two items are of cost, as well as the non-cost tax items such as trial tax and library tax, would be deducted, therefore, from the amount paid by the defendant, the preliminary trial fee of the clerk being refunded to the county fine and forfeiture funds, the solicitor's fee going either to the county or to the State general fund, depending, of course, upon whether the trial was by the county deputy or circuit solicitor and assuming that all are paid a salary, the trial tax going to the State and the county and the library tax going to the county. The other items of cost would thereupon be remitted to the State less the clerk's five percent collection fee. These other items may, in many instances, amount to more than the amount originally paid by the State and, in many instances, less."

An example of the intended meaning that might be injected is an average felony case where the defendant pleads not guilty, is found guilty, and thereafter sentenced to the penitentiary, no appeal taken. Under the provisions of Title 45, Section 69, Code of Alabama Recompiled 1958, the State of Alabama pays the clerk \$15.00. The defendant subsequently pays the cost in full, paying the clerk under the provisions of Title 11, Section 89, Code of Alabama Recompiled 1958, a fee of \$18.00. Under the provisions of Quarterly Report of Attorney General, Volume 97, page 40, the entire \$18.00 is to be remitted to the State of Alabama. However, as above noted in the opinion to Mr. Dobbins, *supra*, the items not paid by the state should not be remitted to the state.

In Quarterly Report of Attorney General, Volume 28, page 45(49), this office ruled, in pertinent part:

"... if the costs paid by the Department of Corrections and Institutions did not cover all of the costs in the case, then the amount paid by the defendant should be **prorated**. If, however, the costs paid by the Department ... covered all of the costs in said case,

then the amount of costs paid by the defendant should be remitted to the said Department.” (Emphasis supplied)

In my opinion, such ruling represents the correct law applicable to your situation and should, accordingly, be followed. As previously stated, Quarterly Report of Attorney General, Volume 97, page 40, is a correct statement of law for general application. However, when applied to the facts under consideration, the same is incorrect in view of pre-existing opinions on this situation and the same is accordingly modified to accord with this opinion and with that quoted above to Honorable J. H. Dobbins, supra.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General

March 16, 1965

Honorable Hubert Gibson
Chairman, Board of Equalization
Choctaw County Court House
Butler, Alabama

Taxation — Ad Valorem Tax — Agricultural Cooperatives
Title 2, Section 129, Code of Alabama 1940

Agricultural cooperatives organized under Title 2, Sections 116-133, Code of Alabama 1940, as amended, are exempt from ad valorem taxation on personal property to the extent provided in Section 129 thereof, provided the merchandise sold to non-members is not in amount greater in value than that sold to members in violation of Section 123 thereof.

Opinion by Assistant Attorney General Younger

Dear Sir:

Your request for an official opinion bearing date of March 2, 1965 is as follows:

“The captioned business does not pay any Ad Valorem Tax on their personal property in Choctaw County. They have two stores, one located at Butler and the other at Gilbertown, from which they sell various and sundry merchandise. These people pay tax on their buildings and land, but they do not render an assessment of any kind and pay tax on their stock of merchandise, typewriters, adding machines or store furniture and fixtures. We have asked these people to show us the law under which they claim the exemption,

but up to this date they have not advised or shown us any law whereby they are entitled to the exemption they are claiming.

"We contend that they should pay taxes, because they are in business, and sell almost any kind of merchandise to anyone who wishes to buy from them.

"In view of this we will appreciate it if you will advise us at your earliest convenience if there is any section in our revenue code exempting this type of business from Ad Valorem tax on property described in the first paragraph of this letter.

"Thanking you to advise us if the personal property of the business described herein is taxable."

The Commissioner of Agriculture of the State of Alabama informs me that the Choctaw County Farmers Cooperative is organized under the provisions of Title 2, Sections 116-133, Code of Alabama 1940, as amended. Section 129 of Title 2 reads as follows:

"Any corporation or association organized hereunder shall pay to the state the annual permit fee of ten dollars now required by law, and shall pay all ad valorem taxes on its real and personal property, except that all cotton and all other agricultural products which have been raised or produced in the state of Alabama, title to which may be held by such corporation or association in its own right or for the use and benefit of its members, and all goods and articles purchased or acquired by such corporation, whether in or out of the state, for its own use or for the use and benefit of its members for strictly agricultural or farm purposes in this state, shall, so long as held by such corporation or association, be exempt from taxation; nor shall such corporation be liable for any other license or privilege fee or tax for the purpose of engaging in or transacting business, or otherwise, in this state."

The Commissioner of Agriculture further informs me that agricultural cooperatives organized under the above code sections are under the general supervision of his Department and that such cooperatives are not permitted to stock and sell items of merchandise except those necessary "for strictly agricultural or farm purposes" which does not include items such as typewriters and adding machines.

Based upon the information contained in your request and that furnished by the Commissioner of Agriculture, it is my opinion that the Choctaw County Farmers Cooperative is exempt from ad valorem taxation on its store furniture and fixtures and office machines, such as typewriters and adding machines, acquired by such cooperative for its own use under the provisions of Section 129, *supra*. See Quarterly Re-

port of Attorney General, Volume XVIII, page 88; Biennial Report of Attorney General, 1936-38, page 182.

It is further my opinion that the Choctaw County Farmers Cooperative is also exempt from ad valorem taxation on its stock of merchandise which it keeps for sale to its members for "strictly agricultural or farm purposes in this state" under the provisions of Section 129, *supra*. See Quarterly Report of Attorney General, Volume XVIII, page 88; Biennial Report of Attorney General, 1936-38, page 182.

It should be pointed out that Title 2, Section 123, Code of Alabama 1940, prohibits agricultural cooperatives from selling merchandise to non-members in amount greater in value than that sold to members, and this office has held that an agricultural cooperative is entitled to exemption from certain ad valorem taxation under Section 129, *supra*, provided such agricultural cooperative does not violate Section 123, *supra*. See Quarterly Report of Attorney General, 1936-38, page 182.

Yours very truly,

RICHMOND M. FLOWERS
Attorney General

March 22, 1965

Honorable Ira H. Weissinger
Judge of Probate
Lee County Court House
Opelika, Alabama

Taxation — Filing Tax — Mortgages

Where a corrective mortgage is filed which merely remedies a clerical error, such as the date of a mortgage payment, such instrument is entitled to be recorded without the payment of any mortgage privilege tax, provided the original mortgage which is being corrected has been previously recorded and mortgage tax thereon paid in full.

Opinion by Assistant Attorney General Loeb.

Dear Sir:

Your request for an official opinion is as follows:

"The question frequently arises in this office as to whether a corrective mortgage, which remedies a clerical error in the date of a mortgage payment, constitutes a new instrument, requiring full mortgage tax.

"Our local attorneys contend that since a mortgage tax is collected on the amount of the mortgage, a change in the date of payment should not require a second collection of tax upon the same amount of indebtedness.

"Will you please give us your opinion as to whether our local attorneys are correct in the particulars above stated?"

It is the opinion of this office that where a corrective mortgage is filed which merely remedies a clerical error in the date of a mortgage payment, such instrument is entitled to be recorded without the payment of any mortgage privilege tax levied under Section 619, as amended, Title 51, Code of Alabama 1940, assuming that the mortgage which it corrects has been previously recorded and the mortgage tax thereon has been paid in full.

This office has previously ruled that only one tax was due in a similar situation with regard to two mortgages, the later one correcting the amount of indebtedness recited in the earlier mortgage. Quarterly Report of the Attorney General, Vol. 57, page 72.

It should also be pointed out that Judge Gardner, in discussing the question of deed tax in *Hawkins v. Pure Oil Co.*, 232 Ala. 660, 169 So. 307, stated as follows:

"The purpose of the exception was plain. It is a matter of general knowledge that in abstracting titles to property, and in making sales, and settling estates numerous defects appear which should be corrected on the record, and the owner, though having possession and title, is required to perfect the record title, and deeds are oftentimes required for this purpose. They are based upon a mere nominal consideration, and usually serve to correct a technical error or defect in the title, or perhaps some matter of description."

While this opinion dealt with Section 618, as amended, Title 51, Code of Alabama 1940, the situations are analogous and it must be assumed that the legislature did not intend to create a situation involving double taxation in the case of mortgage tax, while relieving such situation in the case of deed tax.

It is, therefore, concluded that where the corrective mortgage clearly states that it is corrective and where the mistake involved is of a technical nature and does not substantially change the instrument or intent of the parties drawing the instrument, no tax should be collected for recording the corrective mortgage.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General

March 24, 1965

Hon. Phillip J. Hamm
Commissioner of Revenue
State Department of Revenue
CAPITOL

Dept. of Revenue — Income Tax — Savings & Loan Associations — Dividends — Words & Phrases

Dividends paid to accountholders of savings and loan associations are to be included in gross income for the purpose of computing State income tax.

Opinion by Assistant Attorney General Bradley.

Dear Sir:

Your request for an official opinion bearing date of February 2, 1965, is as follows:

"Your official opinion is requested on the question of whether so called 'Dividends' of Savings and Loan Associations are exempt from Alabama Income Tax under the provisions of Title 51, Section 388, Alabama Code 1940, or whether such 'Dividends' should be treated as interest income.

"It is the opinion of our Legal Division that such 'Dividends' should be treated as interest income. A copy of a memorandum from the Legal Division on this subject dated May 11, 1964, is enclosed for your information."

The authority for the creation, management, supervision, final termination and liquidation of savings and loan associations is found in Chapter 11 of Title 5, Code of Alabama 1940, as Recompiled 1958.

Section 222 of Title 5, *supra*, provides that the capital of a savings and loan association shall consist of "payments on accounts by its members, plus dividends credited to such accounts, less redemption and repurchase payments," and also provides that "each account shall be represented by the account of each accountholder on the books of the association and each accountholder shall receive an account book containing a membership certificate in the form prescribed in this Chapter, * * * " (Emphasis supplied)

It appears from the wording of Chapter 5, *supra*, that a person who invests money in a savings and loan association is an accountholder rather than a stockholder. There is no stock issued to a member of a savings and loan association, only an account. An association is prohibited from paying a guaranteed rate of interest or a fixed amount in

dividends on its accounts. Title 5, Section 229, Code of Alabama 1940, as Recompiled 1958.

However, it is provided in Section 225 of Title 5, *supra*, that "payments of net earnings to accountholders are dividends and shall not be referred to as interest."

A person investing money in a savings and loan association receives a passbook evidencing his investment, and, thereafter, twice each year, dividends are declared from the net earnings of the association. The accountholder's share of these dividends depends on the participation value of his account.

Title 51, Section 376, Code of Alabama 1940, as Recompiled 1958, provides, in pertinent part, as follows: "For the purpose of this Chapter and unless otherwise required by the context, * * * (1) The term 'dividends' as used in this Chapter shall be held to mean all dividends from stocks whether paid in cash or property of the corporation."

Section 384 of Title 51, *supra*, provides in pertinent part, as follows: "The term 'gross income' as used herein: (1) Includes gains, profits and income derived from salaries, wages, or compensation for personal services of whatever kind, * * *; also from interest, royalties, rents, dividends, securities or transactions of any business carried on for gain or profit and the income derived from any source whatever, including any income not exempted under this Chapter and against which income there is no provision for a tax. (3) The term 'gross income' * * * shall also mean and include interest, dividends except stock dividends as defined herein, * * *."

Section 388 of Title 51, *supra*, provides, in pertinent part, as follows: "The following exemptions from income taxation shall be allowed to every individual resident taxpayer: Dividends received on stocks of domestic corporations, * * *."

We have been told by the Legislature that net earnings of savings and loan associations are to be called "dividends" rather than "interest." We have also been told by the Legislature through the State income tax law that the term "gross income" shall include dividends except stock dividends and those items of income not exempted under the income tax law. The exemption set out in Section 388 of Title 51, *supra*, refers to dividends paid on **stocks** of domestic corporations, not dividends paid to accountholders in savings and loan associations.

The question now arises: What, if any, weight should be given to the definition of "dividends" in Section 376, *supra*, in view of the above conclusion? Not any, for the reason that Section 376, *supra*, provides that its definition shall apply unless the context requires a different meaning.

Therefore, analyzing Section 384, and 388, *supra*, leads me to the conclusion that the Legislature intended in Section 384 to include all dividends from whatever source in computing "gross income," and in Section 388 intended to exempt from income taxation only "dividends" from **stocks** of domestic corporations. Had the Legislature not intended to include all individuals in "gross income" it could very easily have restricted the dividends to be included in "gross income" to those received on **stocks** of domestic corporations as it did in the exemption section (Sec. 388) of the income tax law (Chapter 17 of Title 51, Code of Alabama 1940, as Recompiled 1958).

The dividends paid to accountholders of savings and loan associations in Alabama are not dividends from **stocks** of domestic corporations; therefore, the "dividends" of accountholders of savings and loans associations are not exempt from State income taxation and should be included in computing "gross income" of a taxpayer.

Consequently, it is my opinion that inasmuch as the net earnings of accountholders of savings and loan associations have been denominated "dividends," and only "dividends" from **stock** of domestic corporations are exempt from State income taxation, dividends from savings and loan associations accounts must be included in arriving at "gross income" for State income tax purposes.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General

INDEX

QUARTERLY REPORT OF THE ATTORNEY GENERAL FOR THE PERIOD FROM JANUARY 1, 1965 THROUGH MARCH 31, 1965

— A —

ACTS:

LOCAL ACTS 1939:

Page 298 (Mobile County Civil Service System) 9

GENERAL AND LOCAL ACTS 1953:

Page 845 (Special census provided by this Act not used
as basis for ABC Board profits distributiton) 21

GENERAL AND LOCAL ACTS 1954:

Page 1485 (County may use funds to publish and
distribute history) 12

GENERAL AND LOCAL ACTS 1964:

Page 335 (Moving traffic violation \$1.00 penalties —
total amount collected sent to State Treasurer) 16

AD VALOREM TAXES:

Exemption — Agricultural Cooperatives — Conditions 35

Not applicable to leasehold interest in real property 26

ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD — ACT:

Profits — Distribution to cities — Last Federal Decennial
Census used as basis 21

— B —

BANKS AND BANKING:

Cash reserve — Investments in Federal funds not considered as ... 11

State chartered banks may issue debentures or convertible
capital notes 18

— C —

CENSUS:

Last Federal Decennial used as basis for distribution of ABC
Board profits 21

CHEROKEE COUNTY:

Probate judge clerical assistants paid by county	7
--	---

CLERKS OF CIRCUIT COURTS

Costs and Fees — in criminal cases where state has paid and defendent subsequently pays all or pays part and works part — Distribution of funds paid	33
--	----

CLERKS OF COUNTY COURTS:

Costs and fees in criminal cases where state has paid and defendent later pays all or pays part and works part — Distribution of funds paid	33
---	----

CLERKS OF INFERIOR COURTS:

Costs and fees in criminal cases where state has paid and defendent later pays all or pays part and works part — Distribution of funds paid	33
---	----

CODE OF ALABAMA 1940, RECOMPILED 1958:

Title 2	
Section 129 (Ad valorem tax exemption for Agricultural cooperatives)	35
Title 5	
Section 81 (Cash reserve required of banks)	11
Title 5	
Section 118 (Powers of State chartered banks)	18
Title 11	
Section 8 (No allowance from county to probate judge for making index)	7
Title 29	
Section 71(1) (ABC Board profits distribution based on last Federal Decennial Census)	21
Title 46	
Section 257 (Physician may not delegate filling of prescriptions to unlicensed pharmacist.)	30
Title 51	
Section 21 (No ad valorem taxes on leasehold interest)	26

CONSERVATION, DEPARTMENT OF:

Water Patrolman — Duty toward boat of intoxicated person	20
--	----

CONTRACTS:

Mobile County Civil Service System — Employees may not be covered by contract	9
---	---

COOPERATIVES:

Agricultural — ad valorem tax exemption — conditional	35
---	----

COSTS AND FEES:

In criminal cases where state has paid and defendant later pays all or pays part and works part — Distribution of funds paid	33
Probate judge nor employees receive any allowance for preparing a marriage index	7

COUNTIES:

History — funds may be used for writing and publication of — Restrictions on distribution	12
May not pay probate judge or his employees for preparing index	7
Cherokee county — clerical assistants of probate judge paid by county	7

— D —**DEEDS:**

Filing tax — where deed is silent about purchase money mortgage executed at same time	24
---	----

— E —**EXEMPTIONS:**

Ad valorem taxes — Agricultural Cooperatives — conditional	35
--	----

— F —**FILING TAX:**

Deed and purchase money mortgage same transaction but deed is silent as to mortgage	24
For Corrective Mortgage	37

FINES:

Moving traffic violation \$1.00 penalty — total amount collected by city of Mobile forwarded to State Treasurer	16
---	----

— I —**INCOME TAX:**

Savings and Loan Associations — dividends subject to	39
--	----

— J —

JUDGES OF PROBATE:

Cherokee County — clerical assistants of probate judge paid by county	7
May not receive allowance from county for preparing index	7

— L —

LEASES:

No ad valorem taxes on leasehold interest	26
---	----

— M —

MARRIAGES:

Index in probate court — No allowance from county for preparation	7
--	---

MERIT SYSTEM:

Mobile County Civil Service System — Employees not covered in statute may not be covered by contract	9
---	---

MOBILE COUNTY:

Civil Service System — Employees not covered in statute may not be covered by contract	9
---	---

MORTGAGES:

Filing tax for corrective mortgage	37
Filing Tax — where deed is silent about purchase money mortgage executed at same time	24

MUNICIPALITIES:

Alabama Alcoholic Beverage Control Board profit distribution based on last Federal census	21
Moving traffic violation \$1.00 penalty — Total amount collected by city forwarded to State Treasurer	16
Sales Tax — site of sale for purpose of — factors to be considered	28

— O —

OPINIONS OVERRULED, MODIFIED OR DISTINGUISHED:

Quarterly Report Vol. 97, page 40 (Distribution of amount paid by defendant where he pays all or pays part and works part of costs and fees in criminal case where state has paid)	33
---	----

— P —

PHARMACISTS:

Physicians may not delegate filling of prescriptions to unlicensed pharmacists	30
---	----

PHYSICIANS:

May not delegate filling of prescriptions to unlicensed pharmacists	30
--	----

PROBATE COURT:

Marriage index — no allowance from county for preparation	7
---	---

— R —

RECORDS:

Probate court — Index — No allowance by county for preparation	7
---	---

REVENUE, DEPARTMENT OF:

Income tax — Dividends from savings and loan associations not exempt from	39
--	----

— S —

SALES TAX:

Site of sale for purpose of — factors to be considered	28
--	----

SAVINGS AND LOAN ASSOCIATIONS

Dividends from subject to State income tax	39
--	----

— T —

TAXATION:

Agricultural Cooperatives — Exemption — ad valorem taxes on personal property — conditional	35
Filing tax for corrective mortgage	37
Filing tax — where deed and purchase money mortgage are part of same transaction	24
No ad valorem taxes on leasehold interest	26
Sales Tax — site of sale for purpose of — factors to be considered	28

— W —

WATER:

Patrol officer — duty toward boat of intoxicated person who is taken into custody	20
--	----

WORDS AND PHRASES:

“Dividends” from savings and loan associations are not interest ...	39
Investments in federal funds not included in “cash” for banking purposes	11

INFORMAL OPINIONS

During the period covered by this Quarterly Report of the Attorney General, January 1, 1965 through March 31, 1965, the Attorney General rendered the following informal opinions. These informal opinions are not published in the Quarterly Report.

Subject Matter	Addressee	Date	File No.
CONSTABLES			
Duties — Jurisdiction	Douglas Bunn	Jan. 11	282
Duties — Jurisdiction	William F. Lee	Jan. 20	308
Elections — Political Activities	Jack H. Harrison	Jan. 25	338
Jefferson County — Deputy	Walter G. Bridges	Jan. 5	266
CORPORATIONS			
Associations — Formation	William C. Finlay	Mar. 10	446
Banks — Bylaws	Robert M. Cleckler	Feb. 17	Bank. Dept.
Banks — Security	Robert M. Cleckler	Mar. 8	Bank. Dept.
COUNTIES			
Boards of Equalization — Supplies	Nadine H. Fuller	Jan. 15	298
Boards of Registrars — Clerical Help	M. L. Cannon	Jan. 5	265
County Engineer — Retirement	James T. Beeland	Mar. 26	526
Equipment — Districts	John C. Harrington	Mar. 4	442
Humane Society — Appropriation	Homer McLemore	Mar. 31	520
Library Boards — Administrative Agencies	Elizabeth Parks Beamguard	Jan. 27	Library Serv.
Motor Vehicles — Commissioners	J. M. Merrill	Feb. 15	402
Motor Vehicles — Insurance	James T. Adams	Jan. 15	300
Recreation Boards — Establishment	George H. Stopp	Feb. 8	392

Subject Matter	Addressee	Date	File No.
COUNTIES, (Cont'd.)			
Telephones — Solicitors	John M. Coxwell	Mar. 11 & Mar. 23 Feb. 9	457 394
Water Improvement — Legislation	A. B. Robertson, Jr.		
ELECTIONS			
Boards of Registrars — Questionnaire	R. K. McQueen	Feb. 19	396
Voters — Qualifications	Joseph C. Gerson	Jan. 12	277
HIGHWAYS AND HIGHWAY DEPARTMENTS			
Rights of Way — Lateral Support	H. L. Nelson	Mar. 30	H'Way Dept.
INSURANCE			
Colleges & Universities — Teachers	Ralph W. Adams	Feb. 16	404
Deposits — Release	Mary T. Garner	Jan. 15	St. Treas.
Deposits — Release	Mary T. Garner	Mar. 30	St. Treas.
Gas Commission — Regulation	Walter S. Houseal	Mar. 4	Ins. Dept.
Retirement — Counties	Lee M. Otts	Feb. 2	225
Retirement — Counties	Robert O. Haas	Feb. 11	381
JUSTICES OF PEACE			
At Large — Authorization	V. C. Paul	Jan. 5	252
Jurisdiction — Fines	Wendell F. Elliott	Jan. 22	327
Vacancies — De Facto	Marion N. Landen	Jan. 26	330
LABOR			
Unions — Counties	H. L. Knowles	Mar. 9	445
Unions — Municipalities	H. L. Knowles	Mar. 9	445
Unions — Water Works Boards	Bd. of Commissioners	Mar. 3	459

Subject Matter	Addressee	Date	File No.
MOTOR VEHICLES			
Accidents — Dead Bodies	Horace L. Posey	Jan. 11	280
Explosives — Transportation	Norman C. Larson	Feb. 26	425
Investigation — H'way Patrol	John R. McConkey	Jan. 13	275
Licenses — Fines	Albert J. Lingo	Feb. 24	Dept. of Pub. Safety
Lotteries — Motorcycles	David W. Crosland	Jan. 14	Solicitors File
MUNICIPALITIES			
Annexation — Elections	J. Paul Meeks	Jan. 5	158
Civil Service — Employment	Earle C. Moody	Jan. 4	223
Commissioners — Authority	Robert M. Field	Jan. 27	339
Commissioners — Elections	Earle C. Moody	Jan. 26	223
Councilmen — Purchases	Alice G. Johns	Jan. 13	276
Deposits — Securities	Robert M. Cleckler	Mar. 5	Bank. Dept.
Deputy Solicitor — Salary	James D. Hammonds	Feb. 3	Solicitors File
Government — Change	Millard Thomas	Mar. 1	416
Licenses — Insurance	Chester Parham, Jr.	Mar. 29	516
Licenses — Parades	John B. Owens	Mar. 1	419
Recorders — Compensation	B. R. Winstead, Jr.	Feb. 12	361
Recreation Boards — Establishment	George H. Stopp	Feb. 8	392
Zoning — Ordinances	Willard Pienzezza	Jan. 18	310
OFFICERS AND OFFICES			
Barbers — Member	Etowah Co. Barbers Commission	Jan. 21	329
Board of Engineers — Compensation	Sarah E. Hines	Jan. 28	Dept. of Engineers & Land Surveyors
City Clerk — Gas and Water Board	C. P. Walker	Feb. 17	398

Subject Matter	Addressee	Date	File No.
OFFICERS AND OFFICES, (Cont'd.)			
Clerks of Circuit Courts — Costs and Fees	H. M. Gilley, Jr.	Feb. 12	360
Clerks of Circuit Courts — Costs and Fees	Clark E. Johnson, Jr.	Feb. 19	395
Clerks of Circuit Courts — Costs and Fees	Edward N. Beck	Mar. 4	441
Clerks of Circuit Courts — Search Warrants	John Nichols	Mar. 31	524
Hospitals — Board of Directors	Morgan Reynolds	Mar. 3	323
Hospitals — Co. Bds. of Ed.	Morgan Reynolds	Feb. 3	323
Legislature — State	John Pemberton	Feb. 25	House of Representatives
Physicians — Teachers	J. Rufus Bealle	Feb. 1	84
Professors — Atty. Gen.	Harry Hubbard	Feb. 3	357
PUBLIC UTILITIES			
Railroads — Flagging Rules	Eugene "Bull" Connor	Mar. 19	Pub. Serv. Comm.
SCHOOLS			
Capitol Outlay — Buildings	George H. Roberts	Mar. 29	506
City Bds. of Ed. — Funds	Billy Adkins	Jan. 15	299
Co. Supt. of Ed. — Qualifications	Gordon Conway	Feb. 24	420
Municipalities — Enlargement	Joe H. Payne	Feb. 2	242
School Trustees — Terms	Gordon Conway	Feb. 24	420
State and State Depts. — Attorneys	A. R. Meadows	Mar. 5	Dept. Ed.
Students — Injuries	George L. Layton	Jan. 14	Dept. Ed.
SHERIFFS			
Insane Persons — Removal Fee	Dewey F. Colvard	Mar. 18	10
Jails — Attendant	W. L. Woodham	Mar. 5	439

Subject Matter	Addresses	Date	File No.
Seizure Fees — Intoxicating Liquors	Morgan Reynolds	Jan. 25	323
TAXATION			
Corporations — Stockholders	B. W. Thornton	Mar. 12	456
Distillers — Computation	James E. Caldwell	Jan. 20	ABC Bd.
Filing Tax — Bank Trustees	Ashford Todd	Mar. 17	475
Filing Tax — Conditional Sales	T. C. Almon	Mar. 22	491
Filing Tax — Municipalities	Leonard Beard	Jan. 7	Planning & Dev. Bd.
Licenses — Firearms	Cecil F. Asbury	Jan. 4	262
Order of Moose — Exemptions	H. Waites Kirby	Mar. 22	490
Soil Conservation — Property	Carl H. Merrill	Jan. 6	272